

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #16	CCRB Case #: 202300851	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/19/2022 11:00 AM	Location of Incident: § 87(2)(b)	18 Mo. SOL 5/19/2024	Precinct: 06
Date/Time CV Reported Mon, 01/30/2023 4:41 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 01/30/2023 4:41 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Jennifer Paolino	11839	970760	006 PCT
2. PO Dilan Paca	04564	972845	006 PCT
3. PO Claribel Olivares	10631	928524	006 PCT
4. PO Muhammad Amir	10773	966434	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Brian Hardman	04990	965170	006 DET
2. SGT Jimmy Donggilio	02479	926787	006 PCT
3. PO Paule Rivera	15293	942442	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Muhammad Amir	Abuse: Police Officer Muhammad Amir entered § 87(2)(b) in Manhattan.	
B . PO Jennifer Paolino	Abuse: Police Officer Jennifer Paolino entered § 87(2)(b) in Manhattan.	
C . PO Claribel Olivares	Abuse: Police Officer Claribel Olivares entered § 87(2)(b) in Manhattan.	
D . PO Dilan Paca	Abuse: Police Officer Dilan Paca entered § 87(2)(b) in Manhattan.	
E . PO Muhammad Amir	Force: Police Officer Muhammad Amir used physical force against § 87(2)(b)	
F . PO Jennifer Paolino	Force: Police Officer Jennifer Paolino used physical force against § 87(2)(b)	
G . PO Jennifer Paolino	Discourtesy: Police Officer Jennifer Paolino spoke discourteously to § 87(2)(b)	

### Case Summary

On January 30, 2023, § 87(2)(b) called the CCRB and filed the following complaint.

On November 19, 2022, at approximately 11:00 a.m., § 87(2)(b) was inside § 87(2)(b) § 87(2)(b), in Manhattan when PO Muhammad Amir, PO Jennifer Paolino, PO Claribel Olivares, and PO Dilan Paca, all of the 6<sup>th</sup> Precinct, responded. PO Amir, PO Paolino, PO Olivares, and PO Paca entered the apartment (**Allegations A, B, C, D: Abuse of Authority**, § 87(2)(g) § 87(2)(b)).

Sgt. Jimmy Donggilio and PO Paule Rivera, also of the 6<sup>th</sup> Precinct, responded to the apartment. Sgt. Donggilio instructed officers to place § 87(2)(b) under arrest. PO Amir and PO Paolino used force to pull § 87(2)(b)'s arms behind his back and place him in handcuffs (**Allegations E and F: Force**, § 87(2)(g) § 87(2)(b)). At one point, PO Paolino said to § 87(2)(b) § 87(2)(b) "I don't know who the fuck you're talking to" (**Allegation G: Discourtesy**, § 87(2)(g) § 87(2)(b)). § 87(2)(b) was arrested for § 87(2)(b) (BR 05).

The investigation is in possession of seven BWC videos pertaining to this incident (BRs 08 - 14).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Muhammad Amir entered § 87(2)(b) in Manhattan.**

**Allegation (B) Abuse of Authority: Police Officer Jennifer Paolino entered § 87(2)(b) in Manhattan.**

**Allegation (C) Abuse of Authority: Police Officer Claribel Olivares entered § 87(2)(b) in Manhattan.**

**Allegation (D) Abuse of Authority: Police Officer Dilan Paca entered § 87(2)(b) in Manhattan.**

It is undisputed that § 87(2)(b) had been evicted from his apartment the day before this incident.

§ 87(2)(b) stated (BR 02) that upon being evicted on November 18, 2022, he was issued a document stating that he was to appear in court on November 22, 2022. He then went to the Housing Court office where a clerk informed him that he had the right to reenter his apartment prior to the court hearing. He had no documentation of this clerk's information to verify this. When he returned to § 87(2)(b) he found the locks had been changed. § 87(2)(b) then called a locksmith, who changed the locks for him, and he reentered his apartment.

When § 87(2)(b) spoke with officers on November 19, 2022, he presented them with the document with the court date and explained the conversation he had with the clerk the day before. He did not articulate that he did not want officers inside his apartment. Officers informed him that the documents § 87(2)(b) had did not allow him to reenter his apartment. He was then arrested for § 87(2)(b).

PO Amir (BR 03) testified that the superintendent for § 87(2)(b)'s building called 911 on the day of the incident and told officers, upon their arrival, that § 87(2)(b) was currently in an apartment he had been evicted from and had the documentation to prove it. PO Amir could not remember what the documentation said specifically but recalled looking at it with the superintendent. He, along with PO Paolino, PO Olivares, and PO Paca, then went up to § 87(2)(b) § 87(2)(b) and spoke to § 87(2)(b). § 87(2)(b) refused to step outside of the apartment to speak with officers, so officers entered the apartment. He explained that because the superintendent had produced documentation that proved § 87(2)(b) had been evicted, § 87(2)(b) did not have the right to deny officers entry to the apartment.

PO Paolino (BR 04) provided testimony consistent with PO Amir's.

The investigation obtained a Judgement of Possession (**BR 06**), signed by Housing Court Judge § 87(2)(b) on § 87(2)(b), ordering a warrant of eviction for § 87(2)(b) § 87(2)(b), which could be executed as early as § 87(2)(b).

The investigation also obtained an Order to Show Cause (**BR 07**), signed by Housing Court Judge § 87(2)(b), on § 87(2)(b). The Order did not allow § 87(2)(b) to remain in § 87(2)(b) § 87(2)(b) prior to his motion term scheduled for § 87(2)(b). It granted § 87(2)(b) limited access to the apartment for the purpose of obtaining personal effects and must obtain/leave the key to the apartment with the superintendent or landlord.

PO Paolino's BWC (**BR 08**) is generally consistent with officer's statements. At 2:35, officers speak to a man who identifies himself as the superintendent and says to officers, "Remember the guy I was telling you that was evicted yesterday? He broke in." He hands a document to PO Paolino titled, "MARSHAL'S LEGAL POSSESSION which states, "Eviction Date: § 87(2)(b)" and notes the address: § 87(2)(b) of § 87(2)(b) § 87(2)(b) rooms: ALL." The superintendent also provides officers with a key to § 87(2)(b)'s apartment and lets the officers into the building. At 4:45, PO Amir rings the doorbell to #§ 87(2)(b) § 87(2)(b) opens the door. PO Amir speaks to § 87(2)(b) who explains that he does have the right to be in the apartment and has documentation to prove it. At 6:05, PO Amir asks § 87(2)(b) to step out of the apartment, which he refuses. He then enters the apartment. PO Paolino, PO Olivares, and PO Paca follow him inside.

The investigation obtained § 87(2)(b)'s arrest report (**BR 05**, page 1), which states that § 87(2)(b) was ordered to leave § 87(2)(b) § 87(2)(b) and to not return pending a civil trial set for § 87(2)(b). The report further states that § 87(2)(b) changed the locks to the apartment.

In *People v. Ponto*, 103 A.D.2d 573 (1984) (**BR 15**), the court ruled that a recognized exception to the warrant requirement is third-party consent, which requires the consent of a person possessing common authority over or other sufficient relationship to the premises or effects sought to be inspected. In this court case, when an eviction warrant had been issued but the tenant had not been evicted yet, the tenant still possessed a reasonable expectation of privacy.

§ 87(2)(g)

**Allegation (E) Force: Police Officer Muhammad Amir used physical force against § 87(2)(b).**

**Allegation (F) Force: Police Officer Jennifer Paolino used physical force against § 87(2)(b).**

In his intake statement, § 87(2)(b) (**BR 01**) said officers were "unnecessarily rough" with him while he was in his apartment with officers but did not provide any specific details. He stated that while talking with officers inside the apartment, PO Amir shoved him down onto a couch.

PO Amir did not recall pushing § 87(2)(b) onto a couch in the apartment. However, he recalled Sgt. Donggilio ordering him and PO Paolino to arrest § 87(2)(b) for § 87(2)(b) and § 87(2)(b) tensing his arms and verbally protesting his arrest when he and PO Paolino placed him in handcuffs.

PO Paolino provided testimony consistent with PO Amir's.

In PO Paolino's BWC, at 14:40, Sgt. Donggilio, after reviewing the court documentation provided by § 87(2)(b) instructs PO Paolino and PO Amir to place § 87(2)(b) in handcuffs. PO Amir and PO Paolino grab § 87(2)(b)'s wrists. § 87(2)(b) is seen clenching his fists while officers say, "Stop resisting." § 87(2)(b) replies that he is not resisting, but it takes PO Amir and PO Paolino approximately ten seconds to place him in handcuffs. Sgt. Donggilio tells § 87(2)(b) that he is under

arrest for § 87(2)(b) PO Amir and PO Paolino walk § 87(2)(b) outside to their RMP by holding onto his arms and walking with him and they place him inside the RMP. At no point is any officer seen pushing § 87(2)(b) onto the couch in the apartment.

Patrol Guide Procedure 221-01 (BR 15) states that officers are permitted to use a reasonable amount of force in order to place a person in custody.

§ 87(2)(g)

**Allegation (G) Discourtesy: Police Officer Jennifer Paolino spoke discourteously to § 87(2)(b)**

It is undisputed that PO Paolino said, “I don’t know who the fuck you’re talking to,” to § 87(2)(b). This is captured at 18:55 in PO Paolino’s BWC (BR 08).

PO Paolino testified that she made that remark out of exasperation and because § 87(2)(b) was not showing courtesy, professionalism, or respect to officers. She did not believe this incident was particularly violent or stressful.

Patrol Guide Procedure 200-02 (BR 17) states that officers are expected to treat every citizen with courtesy, professionalism, and respect. Officers are also to maintain a higher standard of integrity than is generally expected of others.

In DCT Case 2017-17005 (BR 21) the court ruled that discourteous language during stressful or violent situations are not misconduct.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 18).
- PO Amir has been a member of service for four years and has been a subject of three CCRB complaints and eight allegations, none of which were substantiated.
  - § 87(2)(g)
- PO Paolino has been a member of service for two years and this is the first CCRB complaint in which she is listed as a subject.

**Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- On May 22, 2023, a request for any Notice of Claim regarding this incident was filed with Office of the Comptroller and will be added to the case file upon receipt (BR 19).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**RPBP History**

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

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Squad: 16

Investigator:	<u>Carter Garfield</u>	<u>SI Garfield</u>	<u>6/13/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>06/14/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date